

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARLA SPENCE,

Plaintiff,

v.

DOLLAR TREE STORES, INC.;
FAMILY DOLLAR STORES OF
GEORGIA, LLC; and JOHN DOE,

Defendants.

Civil Action
File No.:

PETITION FOR REMOVAL

TO: The Honorable Judges of the United States District Court for the Northern District of Georgia, Atlanta Division:

COMES NOW, Family Dollar Stores of Georgia, LLC and improperly named Dollar Tree Stores, Inc., by and through its undersigned counsel, and it hereby files their Petition for Removal and respectfully shows this Court the following:

1. A civil action has been filed and is now pending in the State Court of Gwinnett County, State of Georgia, designated as Civil Action File. No.: 21-C-01642-S2.

2. The Summons and Complaint in that action were filed in the State Court of Gwinnett County on March 2, 2021. Defendants were served on March 3, 2021.

Thus Dollar Tree timely files this Petition for Removal.

3. Defendants file herewith a copy of all process, pleading, and orders including the Summons and Complaint in this action, pursuant to 28 U.S.C. §1446. (Attached hereto as Exhibit “A”).

4. Defendant Family Dollar is now, was at the commencement of this suit, and at all times since been a limited liability corporation organized and existing under the laws of the Virginia. Defendant has one member, which is Family Dollar Stores, Inc., an entity organized under the laws of Delaware and having its principal place of business in Virginia.

5. Defendant Dollar Tree is now, was at the commencement of this suit, and at all times since been a corporation organized and existing under the laws of the State of Virginia with its principal place of business located at 500 Volvo Parkway, Chesapeake, Virginia, 23320.

6. Plaintiff is a citizen of Georgia. (Complaint, ¶1). Therefore, the action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by Defendant pursuant to the provisions of 28 U. S. C. §§ 1332, 1367, and 1441 et seq., in that there is complete diversity among the parties and the Defendant is not a resident of the State of Georgia, the Parties are not residents of the same state, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

7. Plaintiff has filed suit against Family Dollar and Dollar Tree alleging negligence regarding Plaintiff's personal injury claiming damages for past and future medical expenses, past and future pain and suffering, and lost wages, lost earning capacity, and attorney's fees. (Complaint, ¶¶ 20, 22). Specifically, Plaintiff claims at least \$22,000.00 in past medical expenses. After speaking with Plaintiff's Counsel, Plaintiff is claiming a right knee injury requiring surgery and physical therapy.

In Harris v. Bloomin' Brands, Inc., 1:18-cv-05078-ELR (N.D. Ga. 2019), Judge Ross found that the amount in controversy exceeded the \$75,000 jurisdictional minimum even though the plaintiff only alleged \$10,985.75 in incurred medical expenses. There the plaintiff alleged she sustained serious injuries to her spine, back, neck, and left knee, and that she will require future medical treatments including injections and that she suffers a reduced earning capacity and permanent impairment.

Another recent case is the case of Johnson v. Blackburn, 2:16-CV-989-KOB, 2016 WL 5816114, at *2 (N.D. Ala. Oct. 5, 2016). There the plaintiff alleged he suffered severe injuries to his head, neck, and back. Based on the plaintiff's allegations, the District Court in Johnson found that using judicial experience and common sense, it could infer that the complaint meets federal jurisdictional requirements. Id.

Here, Plaintiff's claims for injury requiring surgery and damages for lost wages are similar to the recent cases, and it is clear that the jurisdictional minimum is met.

8. Defendants are not citizens of the State in which the State Court action is brought.

9. The aforementioned Georgia State Court action is a civil action of which this Court has original jurisdiction under the provisions of Title 28 of the United States Code §1332(a) and accordingly, is one which may be removed to this Court by Defendant pursuant to the provisions of Title 28 of the United States Code §1441, in that it is a civil action in which the matter in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs and is between citizens of different states.

10. Defendants attach a copy of Defendant's Notice of Removal that will be filed in the State Court of Gwinnett County, Georgia marked as Exhibit "B."

11. Defendants attach a copy of the answers they filed in State Court, which are attached hereto as Exhibit "C".

This 22nd day of March, 2021.

[SIGNATURE ON FOLLOWING PAGE]

Goodman McGuffey LLP
Attorneys for Dollar Tree Stores, Inc. and Family
Dollar Stores of Georgia, LLC

By: /s/James T. Hankins, III
JAMES T. HANKINS, III
GA Bar No. 188771
jhankins@GM-LLP.com
SAMANTHA M. MULLIS
GA Bar No. 365592
smullis@gm-llp.com
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARLA SPENCE,

Plaintiff,

v.

DOLLAR TREE STORES, INC.;
FAMILY DOLLAR STORES OF
GEORGIA, LLC; and JOHN DOE,

Defendants.

Civil Action
File No.:

CERTIFICATE OF COMPLIANCE

The foregoing PETITION FOR REMOVAL is double spaced in 14 point Times New Roman font and complies with the type-volume limitation set forth in Local Rule 7.1.

/s/ JAMES T. HANKINS, III
JAMES T. HANKINS, III, ESQ.
Goodman McGuffey LLP
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax
jhankins@GM-LLP.com

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MARLA SPENCE,

Plaintiff,

v.

DOLLAR TREE STORES, INC.;
FAMILY DOLLAR STORES OF
GEORGIA, LLC; and JOHN DOE,

Defendants.

Civil Action

File No.: 21-C-01642-S2

CERTIFICATE OF SERVICE

This is to certify that I electronically filed this Petition for Removal with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

Daphne Duplessis Saddler, Esq.
John Foy & Associates, P.C.
3343 Peachtree Street, N.E., Suite 350
Atlanta, GA 30326
dsaddler@johnfoy.com

This 22nd day of March, 2021.

/s/James T. Hankins, III
JAMES T. HANKINS, III
GA Bar No. 188771
jhankins@GM-LLP.com
Goodman McGuffey LLP
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax